

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION**

,

Plaintiff,

v.

Case No:5: -Oc-PRL

Defendant.

TRIAL ORDER

On DATE, I held a scheduling conference to set this case for trial. During the conference, the parties confirmed that they have/have not demanded a jury trial and that they anticipate this will be a two day jury/bench trial. With the agreement of the parties, the Court set the trial to commence on **DATE**.

The following table of dates and deadlines shall govern the further preparation of this case.

All Other Motions Including Motions <i>In Limine</i> (Multiple motions in limine are not favored. All requests to limit evidence shall therefore be included in a single motion not to exceed 25 pages without leave of Court. Responses are limited to 20 pages without leave of Court.)	4 weeks before trial
Joint Final Pretrial Statement (Including: witness lists, exhibit lists on approved form)	3 weeks before trial
Trial Brief	1 week before trial
Final Pretrial Conference Date: Time:	2 weeks before trial
Trial Term Begins	
Estimated Length of Trial	
Jury/Non-Jury	

The purpose of this order is to discourage wasteful pretrial activities, and to secure the just, speedy, and inexpensive determination of the action. *See* Fed. R. Civ. P. 1; Local Rule 1.01(b). This order controls the subsequent course of this proceeding. Fed. R. Civ. P. 16(b), (e). Counsel and all parties (both represented and *pro se*) shall comply with this order, the Federal Rules of Civil Procedure, the Local Rules for the Middle District of Florida, and the Middle District of Florida's CM/ECF Administrative Procedures for Electronic Filing.

I. ALL OTHER MOTIONS INCLUDING MOTIONS *IN LIMINE*

On or before the date established in the above table, the parties shall file and serve all other motions including motions *in limine*. Local Rule 3.01(g) applies, and the parties shall confer to define and limit the issues in dispute.

II. JOINT FINAL PRETRIAL STATEMENT

A. **Meeting *In Person*** - On or before the date established in the above table, **lead trial counsel** for all parties and any **unrepresented parties** shall meet together *in person* pursuant to Local Rule 3.06(b) in a good faith effort to address the below topics.

1. **Settlement** - The parties shall thoroughly and exhaustively discuss settlement of the action before undertaking the extensive efforts needed to conduct final preparation of the case for trial and to comply with the requirements of this order.

2. **Stipulations** - Stipulate to as many facts and issues as possible. In order to assist the Court, the parties shall make an active and substantial effort to stipulate at length and in detail as to agreed facts and law, and to limit, narrow, and simplify the issues of fact and law that remain contested. As a general rule, parties who have complied with this requirement in good faith will file a Joint Final Pretrial Statement listing far more agreed facts and principles of law than those that remain for determination at trial.

3. **Exhibits** - Tag, mark, identify, examine, copy, and list all original trial exhibits (including actual document exhibits) that any party will offer in evidence or otherwise tender to any witness during trial. *See* Local Rule 3.06(b)(3) and 3.07(a). Prepare and exchange a final exhibit list on the Clerk's approved form bearing a description identifying each exhibit and sponsoring witness. *See* Local Rule 3.07(b). Generally counsel can and will agree to the admission of many of the opposing parties' exhibits without objection and shall designate on the exhibit list the exhibits that the Court may admit without objection at trial.

Absent good cause, the Court will not receive in evidence over objection any exhibits – including charts, diagrams, and demonstrative evidence – not presented to opposing counsel or unrepresented parties for inspection and copying at the required meeting or not listed in the joint final pretrial statement.

Exhibit substitutes must comply with Local Rules 5.04, 3.06, and 3.07. Photographs of sensitive exhibits (*i.e.*, guns, drugs, valuables) and of non-documentary evidence, and reductions of documentary exhibits larger than 8 ½" by 14" to be substituted for original exhibits after

conclusion of the trial must be presented to opposing counsel for examination at the meeting to prepare the Joint Final Pretrial Statement. Objections to such photographs or reductions of exhibits must be listed in the Joint Final Pretrial Statement. (For further information on the Clerk's Disposition Schedule, see Local Rule 5.04(c)).

The parties are advised that the design of certain courtrooms may preclude the use of large exhibits and posters in a jury trial. The parties are directed to contact the trial judge's courtroom deputy clerk to discuss exhibits and equipment to be used during trial.

4. **Witnesses** - Exchange the names and addresses of all witnesses and state whether they will likely be called. Absent good cause, the Court will not permit the testimony of unlisted witnesses at trial over objection. This restriction does not apply to true rebuttal witnesses, i.e., witnesses whose testimony could not have been reasonably foreseen as necessary.

B. **The Joint Final Pretrial Statement**

1. **Form of Joint Final Pretrial Statement** - On or before the date established in the above table, the parties shall file a Joint Final Pretrial Statement that strictly conforms to the requirements of Local Rule 3.06(c) and this Order. **This case must be fully ready for trial at the time that the Joint Final Pretrial Statement is due.** Lead trial counsel for **all** parties, or the parties themselves if unrepresented, shall sign the Joint Final Pretrial Statement. The Court will strike pretrial statements that are unilateral, incompletely executed, or otherwise incomplete. Inadequate stipulations of fact and law will be stricken. Sanctions may be imposed for failure to comply, including the striking of pleadings. At the conclusion of the final pretrial conference, all pleadings are deemed to merge into the Joint Final Pretrial Statement, which will control the course of the trial. Local Rule 3.06(e).

2. **Exhibit List** - The exhibit list filed in compliance with Local Rules 3.06(c)(4) and 3.07(b) must be on the Clerk's approved form (attached to this order). Unlisted exhibits will not be received into evidence at trial, except by order of the Court in the furtherance of justice. *See* Local Rule 3.06(e). The Joint Final Pretrial Statement must attach each party's exhibit list on the approved form listing each *specific* objection ("all objections reserved" does *not* suffice) to each numbered exhibit that remains after full discussion and stipulation. Objections not made – or not made with specificity – are generally waived.

3. **Witness List** - On the witness list required by Local Rule 3.06(c)(5), the parties and counsel shall designate which witnesses will likely be called, and also designate which witnesses may be called. Absent good cause, the Court will not permit over objection testimony from unlisted witnesses at trial. This restriction does not apply to true rebuttal witnesses (*i.e.*, witnesses whose testimony could not reasonably have been foreseen to be necessary). Records custodians may be listed but will not likely be called at trial, except in the rare event that authenticity or foundation is contested. For good cause shown in compelling circumstances, the Court may permit presentation of testimony in open court by contemporaneous transmission from a different location. Fed. R. Civ. P. 43(a).

4. **Depositions** - The Court encourages stipulations of fact to avoid calling unnecessary witnesses. Where a stipulation will not suffice, the Court permits the use of

depositions. At the required meeting, counsel and unrepresented parties shall agree upon and specify in writing in the Joint Final Pretrial Statement the pages and lines of each deposition (except where used solely for impeachment) to be published to the trier of fact. The parties shall include in the Joint Final Pretrial Statement a page-and-line description of any testimony that remains in dispute after an active and substantial effort at resolution, together with argument and authority for each party's position. The parties shall prepare for submission and consideration at the final pretrial conference or trial an edited and marked copy (as to the portion offered by each party) of any deposition or deposition excerpt which is to be offered in evidence.

C. **Coordination of Joint Final Pretrial Statement** - All parties are responsible for filing a Joint Final Pretrial Statement in full compliance with this order. Plaintiff's counsel (or plaintiff if all parties are proceeding *pro se*) shall have the *primary* responsibility to coordinate compliance with the sections of this order that require a meeting of lead trial counsel and unrepresented parties in person and the filing of a Joint Final Pretrial Statement and related material. *See* Local Rule 3.10 (relating to failure to prosecute).

D. **Trial Briefs and Other Materials**

1. **Trial Briefs** - The parties may file a trial brief by the date stated above, not exceeding ten pages, with citations of authorities and arguments specifically addressing those issues (if any) raised in the pretrial statement (*see* Local Rule 3.06(c)(12) and (13)) and any other significant disputed issues of law likely to arise at trial.

2. **Exhibit Notebook** - On or before the morning of trial (prior to jury selection or the commencement of a bench trial), each party shall submit three (3) Exhibit Binders to the Court. The copies should be marked with exhibit tags and appropriate exhibit numbers.

In addition, each party may also submit (*but shall if directed to*) a courtesy Electronic Exhibit Binder that contains all individual exhibits and joint exhibits each party intends to introduce at trial. The exhibits must be saved as PDF documents and compiled into a single PDF file. Counsel must identify each exhibit separately using PDF bookmarks.

If an exhibit is physical evidence, counsel should insert a placeholder exhibit that states, "Exhibit [Number] is [description of exhibit]."

The Electronic Exhibit Binder should be emailed to the [chamber's email](#). Include the case number and case name in the email subject line. If the file containing the Electronic Exhibit Binder is too large to email, then it may be submitted to the Court on a thumbdrive containing the electronic file.

3. **Jury trial:** On or before the date set forth above, the parties shall file the following items.

- i. A concise (preferably one paragraph) **joint or stipulated statement of the nature of the action** to be used solely for the purpose of providing a **basic** explanation of the case to the jury *venire* at the commencement of jury selection process.

- ii. **Proposed Voir Dire.** Notably, the Court will conduct the jury *voir dire* and, in addition to the usual more general questions, will, without initiation by counsel, ask more particular questions suggested by the nature of the case. Counsel should, therefore, be selective in the jury questions submitted to the Court for consideration.
- iii. A complete set of all written **Proposed Jury Instructions** and a **Proposed Verdict Form**. The Court will expect counsel to give their best efforts, cooperatively, in the production of a **joint set of instructions and verdict form**, the format of which the Court will discuss at the pretrial conference. Preference shall be given to the Eleventh Circuit Pattern Jury Instructions. In addition, counsel must email the proposed jury instructions and verdict forms in Microsoft Word® format to the [chamber's email](#). Include the case number and case name in the email subject line.

4. **[if Bench Trial replace with "3"] Bench trial:** Proposed Findings of Fact and Conclusions of Law - The parties should anticipate that they will be required to submit, within 21 to 30 days after the conclusion of the bench trial, Proposed Findings of Fact and Conclusions of Law. When they do so, each shall be separately stated in numbered paragraphs and Findings of Fact shall contain a detailed listing of the relevant material facts the party has established, in a simple, narrative form; and the Conclusions of Law shall contain a full exposition of the legal theories relied upon by counsel. The proposed Findings of Fact and Conclusions of Law must be filed with the Court and also emailed to the [chamber's email](#) in Microsoft Word® format.

E. **Civil Jury Selection Procedure** – The parties are advised that the following procedures will generally be utilized.

Copies of the jury list containing names, addresses and relevant personal data obtained from the jurors' questionnaires will be furnished to counsel at trial.

Members of the jury panel will be qualified generally at the commencement of their service. Thereafter, as a case is called for trial, the jury selection procedure shall be as follows:

Ordinarily, the jury will consist of eight (8) persons. See Rules 47 and 48, F. R. Civ. P. Approximately twenty one (21) persons will be selected from the panel by lot and seated in the jury box as prospective jurors. The Court will then explain the nature of the case and will conduct a general voir dire examination. After completion of voir dire examination, counsel will be invited to the bench to suggest additional questions on voir dire and/or to exercise challenges for cause. After disposing of challenges for cause, if any, peremptory challenges will then be exercised in an alternating manner, one by the Plaintiff(s), one by the Defendant(s), etc. Initial challenges shall be directed to the first eight (8) prospective jurors seated in the box and numbered in the order in which they were called. If, for example, Plaintiff excuses prospective juror No. 4, juror No. 9 will be advanced as a prospective member of the jury; and if Defendant then excuses juror No. 3, juror No. 10 will be advanced, etc. The exercise of challenges will thus continue until all challenges are exhausted or the parties accept the jury. Should any party announce, before exhausting his/her

challenges, that the jurors then deemed positioned in the first eight seats are acceptable, that party will not ordinarily be permitted to thereafter challenge any of such persons. In cases involving multiple parties, counsel should confer with the Court in advance (preferably at the pre-trial conference) concerning the number of peremptory challenges allowed, and whether they will be exercised jointly or otherwise, pursuant to 28 USC §1870.

F. **Courtroom Decorum** – Counsel and *pro se* parties must be familiar with the Local Rules, and pay particular attention to Local Rule 5.03 regarding courtroom decorum.

G. **Courtroom Technology** - Any party intending to use technology, including accessing the internet, shall consult with the Courtroom Deputy in advance.

H. **Settlement** - Counsel shall immediately notify the Court upon settlement of any case. Local Rule 3.08(a). The parties shall notify the Court of any settlement or other disposition of the case which will eliminate the need for a jury by 11:30 a.m. on the last business day before the date scheduled for jury selection. Failure to do so will subject each party to joint and several liability for jury costs. Regardless of the status of settlement negotiations, the parties shall appear for all scheduled hearings, including the Final Pretrial Conference and for trial absent the filing of a stipulation of dismissal signed by all parties who have appeared in the action (or notice of dismissal if prior to answer and motion for summary judgment). Fed. R. Civ. P. 41(a).

DONE AND ORDERED in Ocala, Florida, .

Attachments: Exhibit List Form [mandatory form]

Copies to: All Counsel of Record
Courtroom Deputy



EXHIBIT LIST

_____ Government _____ Plaintiff _____ Defendant _____ Court

Case No. _____

Style: _____

<u>Exhibit No.</u>	<u>Date Identified</u>	<u>Date Admitted</u>	<u>Sponsoring Witnesses</u>	<u>Objections / Stipulated Admissions¹</u>	<u>Description of Exhibit</u>

¹ Use a code (e.g. "A" or "**") in this column to identify exhibits to be received in evidence by agreement without objections. Otherwise, specifically state each objection to each opposed exhibit. Please note that each date box on the left must be one inch wide to accommodate the Clerk's stamp.

